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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,347	07/02/2001	Tao Chen	010401	2438
23696	7590	11/10/2004	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			LAMARRE, GUY J	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/898,347

Applicant(s)

CHEN ET AL.

Examiner

Guy J. Lamarre, P.E.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### GENERAL OFFICE ACTION

**1.0** A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed on 8/27/04 in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission, concurrently filed, has been entered.

**1.** This office action is in response to Applicants' **Amendment** of 8/27/04.

**1.1** **Claims 1 and 10** are amended. **Claims 1-18** remain pending.

**1.2** The rejections of record are withdrawn in response to Applicants' amendment.

### Response to Arguments

**1.3** Applicants' arguments/amendment of 8/27/04 have been fully considered and are persuasive only to the extent that device identification is not specifically described in detail by the prior art references of record: **MIZUTANI**. (US PG Publication No. 2003/0043771) teaches such device identification as follows.

### Claim Rejections - 35 USC § 103

**2.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2.1** This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

**2.2** **Claims 1-18** are rejected under 35 U.S.C. 103 (a) as being unpatentable over **GONNO** (EP Patent No. 000876023; 4 NOV. 1998) and **MIZUTANI et al.** (US PG Publication No. 2003/0043771).

**As per Claims 1 and 10, Gonno** discloses an equivalent means for providing frame re-transmission in a broadcast communication system, comprising: a receiver (col. 4 line 9 and col. 5 lines 9-10) for receiving a message indicative of a frame received in error by a wireless communication device, said message including an identification of said frame; a memory (col. 4 line 27; (e.g., if an error is detected at the receiver, a NAK or repeat request is issued therefrom to the transmitter so that the frame marked as errored is to be retransmitted, said receiver/transmitter having storage means to hold/process such request.)) for storing a predetermined number for determining when to re-transmit said frame; and a processor (col. 4 line 11) for determining a cumulative number of times that said frame was received in error and for ordering a re-transmission of said frame if said cumulative number of times is greater than said predetermined number (e.g., if predetermined number is zero, there is no frame retransmission, otherwise, the frame is retransmitted).

**Not specifically described** in detail in GONNO is the step whereby device identification is effected.

**However MIZUTANI**, in an analogous art, discloses such identifying means, e.g., in para. 64 et seq., wherein ‘*A specific interference/collision avoidance process is performed for wireless communication. In this embodiment, the wireless hub 3 or the wireless port 5 examines an assigned identifier to specify the identity of a packet sender or recipient, and prevents the reception of a packet originating in another system. For packet collision avoidance, the CSMA/CA method is employed for each transaction. In this embodiment, the wireless transceiver and the control unit cooperate and together perform the following processing.*’

**Therefore**, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the procedure in GONNO by including therein identification means as taught by **MIZUTANI**, because such modification would provide the

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procedure disclosed in GONNO with a technique whereby “data originators and destinators are uniquely identified ” {See **MIZUTANI**, Id., para 64.}

**As per Claims 2 and 11, Gonno** discloses an equivalent means wherein: said memory (col. 4 line 27) is further for storing said wireless communication device identification; said processor is further for determining a cumulative number of times that said frame was received in error, said cumulative number increased each time that said frame is identified by subsequent messages from other wireless communication devices.

**As per Claims 3 and 13, Gonno** discloses an equivalent means wherein said message comprises a negative acknowledgement message (NAK) (col. 4 line 35 and col. 5 lines 15-17, col. 6 line 52).

**As per Claim 4, Gonno** discloses an equivalent means wherein said identification comprises a frame number (col. 4 line 9 and col. 5 lines 9-10) and at para. 111 by **MIZUTANI**.

**As per Claim 5, Gonno** discloses, in col. 4 line 11 and col. 12 line 52, an equivalent means wherein said predetermined number comprises a fixed number.

**As per Claim 6, Gonno** discloses, in col. 4 line 11, an equivalent means wherein, said predetermined number comprises a variable number.

**As per Claims 7, 12 and 14, Gonno** discloses, in col. 11 line 1, an equivalent means wherein said predetermined number varies in accordance with a latency associated with transmitting new data frames to said wireless communication device.

**As per Claims 8, 15, 16 and 18, Gonno** discloses, in col. 11 lines 1 and 11, an equivalent means further comprising a transmit buffer, wherein said latency is determined by counting the number of data frames waiting to be transmitted in said transmit buffer.

As per Claims 9 and 17, Gonno discloses, in col. 11 line 25 et seq., an equivalent means wherein said predetermined number varies in accordance with the number of wireless communication devices currently receiving a broadcast transmission.

### Conclusion

3. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Customer Services, 220 20<sup>th</sup> Street S., Crystal Plaza II, Lobby, Room 1B03, Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (571) 272-3826. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3609.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E.  
Primary Examiner  
11/1/04

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